THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION Nos.24930 AND 25217 OF 2006

DATED: 02-07-2007

W.P.No.24930 of 2006

BETWEEN

B. Venkateshwar Reddy,
S/o. Chinna Vengala Reddy,
Occ: Cultivation,
R/o. Narrawada Village,
Dattalur Mandal,
Nellore District.

...PETITIONER

AND

The District Collector,
Nellore, Nellore District
and others.

...RESPONDENTS

W.P.No.25217 of 2006

BETWEEN

B. Venkateshwar Reddy,
S/o. Chinna Vengala Reddy,
Occ: Cultivation,
R/o. Narrawada Village,
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The District Collector,
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COMMON ORDER:

Petitioner in these two writ petitions questions the action of the Station House Officer, Dattalur Police Station, Dattalur Mandal of Nellore District in registering Cr.Nos.9 and 50 of 2006 dated 12.02.2006 and 06.11.2006 respectively.

2. Petitioner submits that he is an assignee of the land in an extent of Ac.4.95 cents and while laying a solar fencing around his land and lands of other assignees, the second respondent – Mandal Revenue Officer, made a report to the fourth respondent against the petitioner and accordingly, a case in Cr.No.9 of 2006 was registered. He further submits that for the self-same reasons the second respondent made a second complaint, on which, the fourth respondent registered another case in Cr.No.50 of 2006.

3. Learned counsel for the petitioner submits that having registered a case in Cr.No.9 of 2006, the fourth respondent is not entitled to register another case in Cr.No.50 of 2006 for the self-same reasons. He further submits that registration of second case is illegal, arbitrary and contrary to the judgment of the Supreme Court in

T.T. ANTONY v. STATE OF KERALA[1]**.**

4. I have perused both the complaints dated 11.02.2006 and 06.11.2006. As per the judgment of the Supreme Court in respect of the same incident or occurrence there cannot be two FIR's but the perusal of the present FIR's go to show that the lands said to have been occupied by the petitioner are different and vary in extents, belonging to different parties. Therefore, it cannot be said that the complaints of the MRO relate to the same incident or occurrence. Pursuant to the aforesaid two complaints relating to different extents of lands belonging to different persons, two cases have been

registered, merely because the survey number is one and the same, it cannot be said that the land is one and the same. Therefore. I am of the opinion that two FIR's are maintainable for different areas, different extents and for different incidents.

5. As a matter of fact, insofar as first case in Cr.No.9 of 2006 is concerned, the investigation is already completed and charge sheet has been filed, which is numbered as C.C.No.337 of 2006 on the file of Additional Judicial First Class Magistrate, Atmakur; insofar as second case in Cr.No.50 of 2006 is concerned, in view of the interim stay granted by this Court on 05.01.2007, the investigation could not be completed and charge sheet could not be filed. Therefore, in view of the aforesaid allegations that the petitioner occupied part of the Government land as well as the lands allotted to other assignees, registration of two criminal cases cannot be said to be illegal and contrary to law.

The writ petitions are accordingly dismissed. There shall be no order as to costs.

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V. ESWARAIAH, J

July 2, 2007
DSK

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[1] AIR 2001 SC 2637